



**NOTICE OF DECISION OF THE CONDUCT COMMITTEE**

**To:**

Name: Mr Dwight Eugene McGuire

Registration No: 1019933

**To:**

- (1) The Registrant**
- (2) The General Social Care Council**
- (3) The Complainant**
- (4) The Employer (if any)**

**NOTICE IS HEREBY GIVEN THAT** the Conduct Committee of the General Social Care Council at its meeting from **22 January 2010** made the following decision about the Registrant's Registration with the General Social Care Council:

**Amended Formal Allegation**

It is alleged that:

1. Between December 1988 and December 1989, you sexually assaulted a female child aged 6 who was part of a household where you were living as a lodger.
2. Between December 1988 and December 1989, on a number of occasions, you indecently exposed yourself to a female child aged 5/6 who was part of a household where you were living as a lodger.
3. As a result of your conduct at paragraph 1:
  - a) on 02 April 2009 you pleaded guilty to one count of Gross Sexual Imposition ("the Offence") in the Common Pleas Court of

- Greene County, Ohio ("the Court") to which you pleaded guilty;  
and  
b) on 15 May 2009 you were sentenced for the above Offence at  
the Court and received a prison sentence of one year,

And in relation to the above facts, you have committed misconduct.

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## **STAGE 1: PRELIMINARIES – 22 January 2010**

### **1. Attendance at Hearing**

Advice from the Legal Adviser:

#### **PROCEEDING IN ABSENCE OF THE REGISTRANT**

Rule 14. (1) Where the Registrant fails to attend and is not represented at the hearing, the Chair of the Committee shall:

(a) require evidence that the Registrant has been served with the Notice of Hearing in accordance with these Rules, and that reasonable efforts have been made to inform the Registrant of the hearing; and

(b) inquire whether any reasons for the Registrant's nonattendance have been communicated to the Clerk to the Committee or the Council.

(2) Where the Committee is satisfied that the Notice has been duly served on the Registrant, and that reasonable efforts have been made to inform the Registrant of the hearing it may:

(a) hear and determine the case in the absence of the Registrant; or

(b) adjourn the hearing and give directions.

The Committee should take into account the e mails sent by the Registrant indicating he is aware of the hearing and does not wish to participate.

#### **DECISION**

The Committee decided to proceed in the absence of the Registrant. They accepted the evidence provided by the Committee clerk that the Registrant had been sent by special delivery international post and by e mail the notice of hearing specifying the details of the allegation and the time and date of the conduct hearing.

The Registrant had e mailed the Committee with his present address on the 3/12/09. He had indicated in the PHR Questionnaire that he admitted his conviction and the facts underlying the conviction. In his e mails dated the 3/12/09 and 8/12/09 he stated that he did not want "any information regarding your investigation or conduct hearing".

The Committee were satisfied that the Registrant was aware of the hearing and had voluntarily absented himself.

Advice from the Legal Adviser:

## **2. Application to amend the Formal Allegation**

Section 17 of Schedule 2 of the Rules states

- (1) Subject to the requirements of a fair hearing, the Committee may amend the Formal Allegation at any stage prior to the finding of Misconduct,
- (2) The Committee shall first hear representations from the Parties, and take advice from the Legal Adviser, before deciding whether or not the Formal Allegation should be amended.

Although the Registrant is not present, he was aware that the bundle to be provided to the Conduct Committee included the facts underlying the suggested amended allegation (2).

## **DECISION**

The Committee decided to amend the formal allegation to add no.2 to the allegation. They decided to do so in order that the record properly reflects the facts admitted by the Registrant in the transcript of a telephone conversation between him and the victim AP.

## **3. FINDINGS OF FACT – 22 January 2010**

Advice from the Legal Adviser:

The Committee was reminded of the following provisions:

1. The burden of proof to prove the facts alleged in the Formal Allegations rests on the Council. The standard of proof is on the balance of probabilities: Paragraph 12(1) and (2) of Schedule 2 of the Rules.
2. The Committee can attach such weight as it believes appropriate to the evidence it has heard.
3. The Committee should take particular care when considering the position of the Registrant who has not attended at this hearing and who is not represented. In that regard the Committee should carefully consider any documentary evidence including e mails and correspondence and the PHR questionnaire which the Registrant filled out.

## **DECISION**

The Committee found allegations 1, 2, 3(a) and 3(b) proved on the basis of evidence from Ms AP, the certificate from Greene County Court, USA, the Registrant's completed pre-hearing questionnaire and the transcript of a telephone conversation between the Registrant and AP. This evidence supported the Committee's finding that the Registrant had on occasions rubbed his penis on AP's leg when she was aged 5/6. They further found the evidence and admissions by the Registrant proved that he had on one

occasion, when AP, aged 6, was in bed, touched her vagina whilst masturbating himself.

The Committee accepted the evidence of AP in a witness statement and the admissions of the Registrant in the transcript of a telephone conversation between him and AP and found that the Registrant had indecently exposed himself on occasions as set out in Allegation 2 (as amended by the Committee).

This offending behaviour took place between December 1988 and December 1989. The Registrant admits he pleaded guilty and was sentenced as set out in allegation 3.

### **STAGE 3: MISCONDUCT – 22 January 2010**

#### Advice from the Legal Adviser:

1. Misconduct is defined in Rule 2(1) of Part 1 of the Rules as conduct which calls into question the suitability of a Registrant to remain on the Register.
2. The burden of proof in relation to misconduct rests upon the Council, in accordance with Paragraph 12(1) of Schedule 2 of the Rules, but the issues of misconduct is an exercise of judgement or assessment of the Committee on the basis of the facts found proven.
3. In accordance with Paragraph 23(2) of the Rules, in deciding upon misconduct the Committee shall have regard to the Code of Practice issued by the Council.

### **DECISION**

The Committee finds Misconduct proved.

The Committee found this to be serious offending behaviour committed on a 5/6 year old girl when the Registrant was in a position of trust whilst living with AP's family and babysitting for them. The behaviour took place over a period of a year. The Registrant did not disclose matters until he was confronted by AP following AP's disclosure to the authorities. He was first confronted by AP in 2007 almost 20 years after the proven allegations took place. As a result of AP's disclosure to the authorities, the Registrant came to be convicted and sentenced in relation to Allegation 3.

The Committee found a breach of paragraph 5.8 of the GSCC Codes of Practice. The Committee noted that the Registrant was prior to his conviction working for Darlington Borough Council as a child and family social worker. He told AP that he worked with young and vulnerable children.

For the reasons set out above the Committee therefore found that the behaviour of the Registrant called into question his suitability to remain on the register.

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## **STAGE 4: MITIGATION AND SANCTION – 22 January 2010**

### Advice from the Legal Adviser:

1. In accordance with Paragraph 25(2) of Schedule 2 of the GSCC (2008) Conduct Rules, the Committee in deciding what sanction is to be imposed upon the Registrant must take into account the following:
  - a) the seriousness of the proven misconduct;
  - b) the protection of the public;
  - c) the public interest in maintaining confidence in social care services; and
  - d) the issue of proportionality
2. The Committee should refer to the Indicative Sanctions Guidance in every case after having found misconduct, at the stage when they are considering what sanction, if any, to impose on the Registrant.
3. It is a central function of the Conduct Committee to promote the interests of people who use services and to protect them by ensuring the suitability of Registrants.
4. The Committee should consider each sanction from the least serious before deciding the appropriate sanction in any given case.

## **DECISION**

**The Committee has decided to remove the Registrant from the Register, with immediate effect.**

The reasons for the Committee's decision are as follows:

The Committee found the following matters aggravated the misconduct

- i) this was an abuse of trust
- ii) of a young girl, AP, (aged 5/6)
- iii) the behaviour spanned a year
- iv) the Registrant had repeatedly exposed himself to AP
- v) he had sexually assaulted her when she was in her bed
- vi) at the time AP was so distressed by matters that she said she did not tell her parents about allegation 1
- vii) the impact on AP was such that in 2007 she was still affected by what had happened and had therefore sought to confront the Registrant in a telephone call.

The Committee found the following matters mitigated the misconduct

- i) the Registrant pleaded guilty to an offence in relation to allegation 1
- ii) the behaviour took place over 20 years ago
- iii) he had expressed remorse
- iv) he said he had undergone counselling shortly after the events.

The Committee had no evidence to assist them regarding further personal mitigation from the Registrant or what steps he may have taken to improve his insight into his offending behaviour and the effects on AP. Although the behaviour took place over 20 years ago there was no evidence to indicate whether or how the Registrant had rehabilitated himself.

The Committee decided that 'no sanction' was wholly inappropriate due to the seriousness of the proven misconduct.

The Committee decided that admonishment was inappropriate due to the seriousness of the proven misconduct and because it was not an adequate sanction to ensure the protection of the public in the future.

The Committee took account of the Indicative Sanctions Guidance which states that sexual abuse of children is misconduct which is particularly serious and especially so when the Registrant is in a position of trust. Furthermore, it noted that he had been classified as a Tier II sex offender in the USA.

In so doing, the Committee found that suspension was not appropriate because his behaviour was incompatible with work as a social worker. His lack of genuine insight into his behaviour or the effect of it on AP meant that suspension was not a sufficient sanction in this case.

In the light of the above, the Committee decided that removal from the register was the appropriate sanction and proportional in the circumstances because this was a serious departure from the relevant standards in the Code of Practice. Confidence in social care services would be undermined if the Registrant continued to practice as a social worker.

**The Committee has decided to revoke any Interim Suspension Order imposed by the Preliminary Proceedings Committee.**

**This sanction shall take immediate effect.**

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**This decision shall take effect immediately, in accordance with paragraph 25(4) of Schedule 2 to the Rules.**

**The effect of this decision is that you are removed from the Register and must not practise as a social worker, or purport to be a registered social worker able to practise while the order is in place. To do so may result in prosecution. This is in accordance with Part IV(61) of the Care Standards Act 2000.**

The Registrant has a right to appeal to the Health, Education and Social Care Chamber of the First-tier Tribunal against this Decision no later than 28 days of service of Notice of it.

*(Service is treated as having taken place on the day after this Notice was posted by registered post or recorded delivery)*

It should further be noted that the First-tier Tribunal does not have jurisdiction to extend this 28 day period and any appeal must be submitted to the Tribunal within that timescale.

Signed.....

Clerk to the Conduct Committee

Dated: 25 January 2010